IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

MID-CONTINENT CASUALTY COMPANY PLAINTIFF

VS. CASE NO. 1:07CV1056HFB
Consolidated With 1:06CV1107HFB

JERRY C. LANGLEY; JERRY LANGLEY OIL COMPANY, LLC; GLENN SAMS; M&J OIL, LLC; RUSSELL CLAY MURPHY; CYPRESS PRODUCTION, LLC; JOHN D. MILAM; MILAM OIL CORPORATION; GARY SEWELL; SEWELL OPERATING, INC.; RICHARD HILL; STEVE ROGERS; HELEN W. LANDES, AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF RODNEY LANDES, SR., DECEASED; AND THREE SISTERS PETROLEUM, INC. DEFENDANTS

SECOND AMENDED AND SUBSTITUTED ANSWER

Come the Defendants, and for their Second Amended and Substituted Answer, herein state:

ANSWER TO FIRST AMENDED COMPLAINT (06-1107)

1. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 1 of the First Amended Complaint and, therefore, deny same.

2. These Defendants deny the allegations contained in paragraph 2 of the First Amended Complaint.

3. These Defendants admit the allegations contained in paragraph 3 of the

First Amended Complaint.

4. It is denied that Glenn Sams is a citizen and resident of El Dorado, Arkansas. All other allegations of paragraph 4 of the First Amended Complaint are admitted.

5. These Defendants admit the allegations contained in paragraph 5 of the First Amended Complaint.

6. These Defendants admit the allegations contained in paragraph 6 of the First Amended Complaint.

7. These Defendants admit the allegations contained in paragraph 5 of the First Amended Complaint.

8. It is denied that John Milam is a citizen and resident of El Dorado, Arkansas. All other allegations of paragraph 8 of the First Amended Complaint are admitted.

9. These Defendants admit the allegations contained in paragraph 9 of the First Amended Complaint.

10. It is denied that Gary Sewell is a citizen and resident of El Dorado, Arkansas. All other allegations of paragraph 10 of the First Amended Complaint are admitted.

11. These Defendants admit the allegations contained in paragraph 11 of the First Amended Complaint.

12. It is denied that Richard Hill is a citizen and resident of Ouachita Parish, Louisiana. All other allegations contained in paragraph 12 of the First Amended Complaint are admitted.

13. It is denied that Steve Rogers is a citizen and resident of El Dorado, Arkansas. All other allegations of paragraph 13 of the First Amended Complaint are admitted.

14. These Defendants admit the allegations contained in paragraph 14 of the First Amended Complaint.

15. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 15 of the First Amended Complaint and, therefore, deny same.

16. These Defendants admit the allegations contained in paragraph 16 of the First Amended Complaint.

17. These Defendants admit the allegations contained in paragraph 17 of the First Amended Complaint.

18. These Defendants admit the allegations contained in paragraph 18 of the First Amended Complaint.

19. These Defendants admit that the Plaintiff seeks declaratory relief, but denies that the Plaintiff is entitled to any of the relief requested.

20. These Defendants admit that Exhibits 1 and 2 attached to the First

Amended Complaint appear to be true and correct copies and that the documents speak for themselves. All other allegations contained in paragraph 20 of the First Amended Complaint are denied.

21. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 21 of the First Amended Complaint and, therefore, deny same.

22. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 22 of the First Amended Complaint and, therefore, deny same.

23. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 23 of the First Amended Complaint and, therefore, deny same.

24. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 24 of the First Amended Complaint and, therefore, deny same.

25. These Defendants deny the allegations contained in paragraph 25 of the First Amended Complaint.

26. These Defendants admit the allegations contained in paragraph 26 of the First Amended Complaint.

27. These Defendants admit the allegations contained in paragraph 27 of

the First Amended Complaint, except that the quoted language is incorrect in the First Amended Complaint as it duplicates the following, "s and any private citizens, persons, organizations, and any agency, branch or representative."

28. These Defendants admit that Three Sisters took over the operations of the oil and gas leases contained in the Phillips Agreement. These Defendants are without sufficient knowledge to either admit or deny when such took place and, therefore, deny same.

29. These Defendants admit the allegations contained in paragraph 29 of the First Amended Complaint.

30. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 30 of the First Amended Complaint and, therefore, deny same.

31. These Defendants admit that Exhibit 4 attached to the First Amended Complaint appears to be a true and correct copy, and that the documents speak for themselves. All other allegations contained in paragraph 31 of the First Amended Complaint are denied.

32. These Defendants admit the allegations contained in paragraph 32 of the First Amended Complaint.

33. These Defendants deny the allegations contained in paragraph 33 of the First Amended Complaint.

34. These Defendants admit the allegations contained in paragraph 34 of the First Amended Complaint.

35. These Defendants admit that Exhibit 5 attached to the First Amended Complaint appears to be a true and correct copy; however, it does not have the included enclosures. All other allegations contained in paragraph 35 of the First Amended Complaint are denied.

36. These Defendants admit that Three Sisters filed a demand for arbitration. All other allegations contained in paragraph 36 of the First Amended Complaint are denied.

37. These Defendants admit the allegations contained in paragraph 37 of the First Amended Complaint.

38. These Defendants admit that Langley group contacted Mid-Continent in July 2005. These Defendants deny all other allegations contained in paragraph 38 of the First Amended Complaint.

39. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 39 of the First Amended Complaint and, therefore, deny same.

40. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 40 of the First Amended Complaint and, therefore, deny same.

41. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 41 of the First Amended Complaint and, therefore, deny same.

42. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 42 of the First Amended Complaint and, therefore, deny same.

43. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 43 of the First Amended Complaint and, therefore, deny same.

44. These Defendants admit the allegations contained in paragraph 44 of the First Amended Complaint.

45. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 45 of the First Amended Complaint and, therefore, deny same.

46. These Defendants admit that Mid-Continent notified Langley and Langley Oil that it was providing a defense. All other allegations contained in paragraph 46 of the First Amended Complaint are denied.

47. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 47 of the First Amended Complaint and, therefore, deny same.

48. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 48 of the First Amended Complaint and, therefore, deny same.

49. These Defendants admit receipt of the letter date and state that the letter speaks for itself. All other allegations of this paragraph are denied.

50. These Defendants admit receipt of the letter date and state that the letter speaks for itself. All other allegations of this paragraph are denied.

51. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 51 of the First Amended Complaint and, therefore, deny same.

52. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 52 of the First Amended Complaint and, therefore, deny same.

53. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 53 of the First Amended Complaint and, therefore, deny same.

54. These Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 54 of the First Amended Complaint and, therefore, deny same.

55. These Defendants admit that the parties to the arbitration have

discussed settling the arbitration proceeding; however, it is denied that these Defendants have settled or that terms of settlement have been agreed to. All other allegations contained in paragraph 55 of the First Amended Complaint are denied.

56. These Defendants deny the allegations contained in paragraph 56 of the First Amended Complaint. Furthermore, the policies speak for themselves.

57. These Defendants deny the allegations contained in paragraph 57 of the First Amended Complaint.

58. These Defendants deny the allegations contained in paragraph 58 of the First Amended Complaint.

59. These Defendants deny each and every material allegation of Plaintiff's First Amended Complaint not herein specifically admitted.

60. These Defendants reserve the right to plead further herein by way of counterclaim, amended answer, affirmative defenses, or cross-claim.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

This Complaint fails to state a claim and/or cause of action upon which relief can be granted.

SECOND DEFENSE

These Defendants aver that Plaintiff's claims are barred by the doctrine of estoppel.

THIRD DEFENSE

These Defendants plead the affirmative defense of waiver.

FOURTH DEFENSE

These Defendants plead the affirmative defense of failure to perform contractual conditions precedent to recovery.

FIFTH DEFENSE

These Defendants affirmatively plead that some or all of the policy provisions relied on by Plaintiff are ambiguous and should be construed against Plaintiff as a matter of law.

SIXTH DEFENSE

These Defendants affirmatively expressly plead the doctrine of contra proferentum and that any ambiguity must be resolved against the Plaintiff, as the drafter of the insurance policies.

SEVENTH DEFENSE

These Defendants reserve any and all other defenses to which they may be entitled and to which they may learn in the course of their investigation and discovery in this action.

EIGHTH DEFENSE

These Defendants plead the affirmative defense of settlement.

WHEREFORE, these Defendants pray that the First Amended Complaint of the Plaintiff be dismissed, for its costs and attorney's fees, and for all other relief to which they may be entitled.

ANSWER TO COMPLAINT (07-1056)

1. The Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 1 of the Complaint and, therefore, deny same.

2. The Defendants deny the allegations contained in paragraph 2 of the Complaint.

3. The Defendants admit the allegations contained in paragraph 3 of the Complaint.

4. These Defendants admit the allegations contained in paragraph 4 of the Complaint.

5. These Defendants admit the allegations contained in paragraph 5 of the Complaint.

6. These Defendants admit the allegations contained in paragraph 6 of the Complaint.

7. These Defendants admit that the Plaintiff seeks declaratory relief, but denies that the Plaintiff is entitled to any of the relief requested.

8. The Defendants admit that Exhibits 1 and 2 attached to the Complaint appear to be true and correct copies and that the documents speak for themselves.

All other allegations contained in paragraph 8 of the Complaint are denied.

9. The Defendants admit the allegations contained in paragraph 9 of the Complaint.

10. The Defendants admit that Three Sisters took over the operations of the oil and gas leases contained in the Phillips Agreement. The Defendants are without sufficient knowledge to either admit or deny when such took place and, therefore, deny same.

11. The Defendants admit the allegations contained in paragraph11 of the Complaint.

12. The Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 12 of the Complaint and, therefore deny same.

13. The Defendants admit that Exhibit 3 attached to the Complaint appears to be a true and correct copy, and that the documents speak for themselves. All other allegations contained in paragraph 13 of the Complaint are denied.

14. The Defendants admit the allegations contained in paragraph 14 of the Complaint.

15. The Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 15 of the Complaint and, therefore, deny same.

16. The Defendants admit the allegations contained in paragraph 16 of the Complaint.

17. The Defendants admit that Exhibit 4 attached to the Complaint appears to be a true and correct copy; however, it does not have the included enclosures. All other allegations contained in paragraph 17 of the Complaint are denied.

18. The Defendants admit that Three Sisters filed a demand for arbitration. All other allegations contained in paragraph 18 of the Complaint are denied.

19. The Defendants admit that Langley group contacted Mid-Continent in July 2005. These Defendants deny all other allegations contained in paragraph 19 of the Complaint.

20. The Defendants admit the allegations contained in paragraph 20 of the Complaint.

21. The Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 21 of the Complaint and, therefore, deny same.

22. The Defendants admit that Mid-Continent notified Langley and Langley Oil that is was providing a defense. All other allegations contained in paragraph 22 of the Complaint are denied.

23. The Defendants admit that Exhibit 5 attached to the Complaint appears to be a copy of a letter, and that the documents speak for themselves. All other

allegations contained in paragraph 23 of the Complaint are denied.

24. The Defendants are without sufficient knowledge to either admit or deny the allegations contained in paragraph 24 of the Complaint and, therefore, deny same.

25. The Defendants deny the allegations contained in paragraph 25 of the Complaint. Furthermore, the policies speak for themselves.

26. The Defendants deny the allegations contained in paragraph 26 of the Complaint.

27. The Defendants deny the allegations contained in paragraph 27 of the Complaint.

28. The Defendants deny each and every material allegation of Plaintiff's Complaint not herein specifically admitted.

29. The Defendants reserve the right to plead further herein by way of counterclaim, amended answer, affirmative defenses, or cross-claim.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

This Complaint fails to state a claim and/or cause of action upon which relief can be granted.

SECOND DEFENSE

These Defendants aver that Plaintiff's claims are barred by the doctrine of estoppel.

THIRD DEFENSE

These Defendants plead the affirmative defense of waiver.

FOURTH DEFENSE

These Defendants plead the affirmative defense of failure to perform contractual conditions precedent to recovery.

FIFTH DEFENSE

These Defendants affirmatively plead that some or all of the policy provisions relied on by Plaintiff are ambiguous and should be construed against Plaintiff as a matter of law.

SIXTH DEFENSE

These Defendants affirmatively expressly plead the doctrine of contra proferentum and that any ambiguity must be resolved against the Plaintiff, as the drafter of the insurance policies.

SEVENTH DEFENSE

These Defendants reserve any and all other defenses to which they may be entitled and to which they may learn in the course of their investigation and discovery in this action.

EIGHTH DEFENSE

These Defendants plead the affirmative defense of settlement.

WHEREFORE, the Defendants pray that the Complaint of the Plaintiff be dismissed, for its costs and attorney's fees, and for all other relief to which they may be entitled.

COUNTERCLAIMS

1. Defendant and Counterclaimant, Jerry C. Langley, is an individual who is a citizen and resident of Ouachita County, Arkansas.

2. Defendant and Counterclaimant, Jerry Langley Oil Company, LLC, is an Arkansas limited liability company, with its principal place of business located in Smackover, Arkansas.

3. Defendant and Counterclaimant, Glenn Sams, is an individual who is a citizen and resident of Union County, Arkansas.

4. Defendant and Counterclaimant, M&J Oil, LLC, is an Arkansas limited liability company, with its principal place of business located in El Dorado, Arkansas.

5. Defendant and Counterclaimant, Russell Clay Murphy, is an individual resident of Pulaski County, Arkansas.

6. Defendant and Counterclaimant, Cypress Production, LLC, is an Arkansas limited liability company.

7. Defendant and Counterclaimant, John D. Milam, is an individual who is a citizen and resident of Union County, Arkansas.

8. Defendant and Counterclaimant, Milam Oil Corporation, is an Arkansas

corporation with its principal place of business located in El Dorado, Arkansas.

9. Defendant and Counterclaimant, Gary Sewell, is an individual who is a citizen and resident of Union County, Arkansas.

10. Defendant and Counterclaimant, Sewell Operating, Inc., is an Arkansas corporation, with its principal place of business located in El Dorado, Arkansas.

11. Defendant and Counterclaimant, Richard Hill, is an individual who is a citizen and resident of Ouachita Parish, Louisiana.

12. Defendant and Counterclaimant, Steve Rogers, is an individual who is a citizen and resident of Union County, Arkansas.

13. Defendant and Counterclaimant, Helen W. Landes, as the Personal Representative of the Estate of Rodney Landes, Sr., deceased, is an individual who is a citizen and resident of Union County, Arkansas.

14. Mid-Continent issued various liability policies (general and excess) covering the Separate Defendants including policies in the names of several of the Separate Defendants and a policy in the name of Hop Oil, LLC. The policy numbers for the policies themselves and/or renewals thereof, are believed include, but not be limited to, the following:

Jerry C. Langley/Langley Oil Company, LLC	04GL000598649, GL30589, 04FL000058968, XS114940, GL128615, XS125825,

	GL88862, XS108715, XS110342, XS114940, GL35089, GL16061, XS133999, GL557057, XS139876, XS145299, GL641166, XS150845, GL683487, GL35089, XS120531, GL123615
M&J Oil, LLC/Glenn Sams	04GL000589011, GL85738, GL109977, GL542895, XS119335, XS131962, XS137904, GL626436, XS143502, XS148992, GL669035, XS154695, GL710992
Clay Murphy/Cypress Production	04GL000589012, GL85742, GL109978, GL542896, XS119827, XS126352, XS119827, XS133848, XS138080

Sewell Operating, Inc.	04GL000074613, GL106194, GL53525, 04GL000075613
Milam Oil Corporation	04GL000583804, GL615675
Hop Oil, LLC	04GL000589011, 04GL000589010

On or about June 28, 2005, Three Sisters Petroleum, Inc., a Louisiana corporation, submitted a demand for arbitration with the American Arbitration Association. The Separate Defendants were named as respondents in that demand for arbitration. The demand for arbitration concerned a claim for indemnity arising out of a release and compromise settlement agreement between Three Sister and the Separate Defendants. That release and compromise settlement agreement was entered into on or about March 15, 2002, to settle disputes concerning oil and gas leases, including leases referred to as the "Moll lease."

15. The Separate Defendants admitted timely notices of occurrences/claims to Plaintiff, and Separate Defendants, Jerry Langley and Jerry Langley Oil Company, LLC, submitted timely notices of occurrences/claims as to the underlying litigation referenced below.

16. The arbitration has not concluded, and is currently held in abeyance, pending the resolution of the underlying litigation in Union County, Arkansas, Circuit Court, including Grover Smith, et al. v. Berg, Laney & Brown, et al., Union

County Circuit Court, No. CIV-2001-0341, filed on October 16, 2001, involving, inter alia, the Moll lease.

17. Mid-Continent claims that it has no coverage for the Separate Defendants for the claims submitted.

18. The Separate Defendants notified Mid-Continent of their intent to settle the arbitration claim of Three Sisters if Mid-Continent would not raise a potential defense that it did not authorize the settlement (consent to settlement clause). Mid-Continent refused.

19. The policy provides coverage to Separate Defendants for any claims of Three Sisters in the arbitration and for claims alleged in the underlying lawsuit. The exclusions relied on by Mid-Continent in this litigation do not apply.

20. Applicable language of the policies is ambiguous and must be construed, as a matter of law, against Mid-Continent and in favor of its insureds.

21. The Separate Defendants seek a declaratory judgment from this Court that the various policies provide coverage to the Separate Defendants for the claims asserted by Three Sisters and for the claims asserted in the underlying litigation.

22. As of the date of the filing of this Counterclaim, neither the underlying litigation nor the arbitration claim of Three Sisters have been finally settled. In the event that settlement of either or both claims (the underlying Union County litigation and the Three Sisters arbitration demand) is reached on terms agreeable to

the Separate Defendants, before resolution by this Court of Mid-Continent's coverage positions advanced in its Complaint and First Amended Complaint, or in this Counterclaim, then the Separate Defendants are entitled to an order of this Court declaring that Mid-Continent may not rely on any consent to settlement clause defense.

WHEREFORE, Separate Defendants and Counterclaimants, Jerry C. Langley, Jerry Langley Oil Company, LLC, Glenn Sams, M&J Oil, LLC, Russell Clay Murphy and Cypress Production, LLC, John D. Milam, Milam Oil Corporation, Gary Sewell, Sewell Operating, Inc., Richard Hill, Steve Rogers, and Helen W. Landes, as the Personal Representative of the Estate of Rodney Landes, Sr., Deceased, request the entry of judgment in their favor as follows:

a. declaring that the Separate Defendants are named insureds under the policies issued by Mid-Continent;

b. declaring that the policy extends coverage to the Separate Defendants for the arbitration claims of Three Sisters and for the claims alleged in the underlying litigation;

c. declaring that Mid-Continent may not enforce the consent to settlement clause to preclude settlement of either the underlying Union County litigation or the Three Sisters arbitration demand;

d. for an award of compensatory damages in the event Mid-Continent precludes reasonable or favorable settlement of the underlying Union County litigation or the Three Sisters arbitration demand;

e. for an award of punitive damages in the event that Mid-Continent precludes reasonable or favorable settlement of the underlying Union County litigation or the Three Sisters arbitration demand;

f. that compensatory and punitive damages exceed the sum of $75,000;

g. for an award of reasonable attorney's fee;

h. for costs expended herein; and

i. for such other further relief as authorized at law.

/s/ David M. Donovan
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AND

/s/ Matthew J. Shepherd
MATTHEW J. SHEPHERD (2001148)
ATTORNEYS FOR DEFENDANTS
JERRY C. LANGLEY, JERRY LANGLEY OIL
COMPANY, LLC, GLENN SAMS, M&J OIL,
LLC, JOHN D. MILAM, MILAM OIL
CORPORATION, GARY SEWELL, SEWELL
OPERATING, INC., RICHARD HILL, STEVE
ROGERS, AND HELEN W. LANDES, AS THE
PERSONAL REPRESENTATIVE OF THE ESTATE

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CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2010, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which shall send notification of such filing to the following:

Mr. R. David Freeze
dfreeze@crispfreeze.com

/s/ David M. Donovan
DAVID M. DONOVAN (81184)
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/s/ Matthew J. Shepherd
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